

# SLAVERY IN ISLAMIC LAW

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DEFENCE OF TRADITIONAL ISLAMIC  
JURISPRUDENCE ON SLAVERY



ORTHODOX ISLAM PUBLICATIONS

UPON THE WAY OF AHL AL-SUNNAH WA'L JAMA'AH

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بسم الله الرحمن الرحيم

اللهم صل على سيدنا محمد النبي الأمي وعلی آله وصحبه وسلم

This is the first booklet of many that will be coming from “Orthodox Islam”. Our mission is to elaborate on particular issues in ways which were not particularly prioritised before. In this specific booklet we will talk about slavery. Slavery is a very sensitive topic which has affected the faith of many Muslims today due to the ambiguity surrounding it. This topic has also been a point of contention raised by sincere non Muslims who want answers as to why slavery exists in Islam. We seek to answer all of these questions by the will of Allah.

We ask the reader to send salawat on our beloved Prophet ﷺ to achieve clarity and tranquility. Additionally, we also ask for the reader to follow all social media of Orthodox Islam and Apostolic Islam for quality and unique content.



# Slavery in Classical Islamic Jurisprudence: Countering Contra Islam Apologetics.

As the postmodern society develops and Muslim immigration rises to the West, Muslims often find challenges and conflicts of values within themselves and within the societies they live in. Western discourse has found contentions with particular aspects of Islamic law (*Sharia*).

In democratic societies, slavery is a shunned institution and a highly controversial one. Slavery is often linked to the transatlantic slave trade resulting in a very rough and abusive image appearing in the mind of every Westerner when it is mentioned.

The aim of this booklet is to thoroughly analyse the history of slavery and why it exists in Islamic law. We will explore the social conditions of slaves in an ideal Islamic society whilst comparing it to the reality that occurred in the historical Muslim empires.

Through doing the above, readers will recognize that the claim, “Islam allows slavery thus it is an immoral religion”, is nothing short of a reductionist fallacy stemming from intellectual laziness and a refusal to look into the topic through the lens of classical and contemporary academia.

## Slavery Before Islam

Islam did not invent slavery nor did it come with something new which did not exist before it. Islam came at a time where slavery was a **major institution practised globally** amongst humanity and seen as perfectly normal. In this chapter, we will be analysing the practices of different empires in regards to slavery, specifically focusing on their methodology of slave acquisition.

In the Neo Babylonian period, slavery was an open door and it was not uncommon for people to become slaves as Professor Daniel c. Snell succinctly notes:

*“One became a slave by getting caught as a prisoner of war, being sold as a debt-slave, or, in the case of the temple slaves, being ‘dedicated’ by a family overwhelmed by crop failure and unable to continue caring for a child.”<sup>1</sup>*

In the Roman Empire, slavery was also a common institution. Professor Jeff Fynn-Paul writes:

*“Even as its western half faced the prospect of dissolution, the Roman Empire evinced a voracious appetite for fresh slave supplies. **Slave imports into the later empire have been estimated by Walter Scheidel at 300,000–400,000 slaves per annum.** These slaves were largely bought, rather than captured, since slave markets organised by*

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<sup>1</sup> The Cambridge world history of Slavery Edited by Keith Bradelt and Paul Cartledge. Volume 1 p.15

*merchants provided a more reliable supply than military campaigns. Of course, a successful military campaign might glut the market and temporarily depress prices. **Slaves were brought from all regions bordering the empire**, especially from the politically disorganised regions, where freshly caught slaves could be had for bargain prices, but it seems that northeast Europe was both the most populous and accessible region, so it might well have supplied the majority of slaves brought into the empire.”<sup>2</sup>*

He also says:

*“As Immanuel Wallerstein’s early modern “world-system” famously drew most peoples of the globe into the ever-expanding European economic ambit, so during the Middle Ages, we now know that economic forces were operating to move people across large sections of the globe, sometimes into quite foreign cultures. This holds true both for the early Middle Ages as for the later period. **It is therefore becoming clear that large-scale slave-trading systems existed in the Greater Mediterranean from ancient times – without a break – until the twentieth century.”<sup>3</sup>***

As we can see from the quotes above it is exceptionally clear that slavery did exist before Islam and it was a driving factor in the economy of pre-Islamic empires. Slavery was seen as totally normal

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<sup>2</sup> The Cambridge World History of Slavery: Volume 2, AD 500-AD 1420. p.29

<sup>3</sup> The Cambridge World History of Slavery: Volume 2, AD 500-AD 1420. p.27

even by the intellectual elites of the respective societies. Consider the quote of the famous philosopher Aristotle:

*“Slavery is natural; in every department of the natural universe we find the relation of ruler and subject. There are human beings who, without possessing reason, understand it. These are natural slaves. But we find persons in slavery who are not natural slaves. Hence slavery itself is condemned by some; but they are wrong. The natural slave benefits by subjugation to a master.”*<sup>4</sup>

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<sup>4</sup> Aristotle's politics translated by Benjamin Jowett, the modern library New York. p.32

## Slavery in Christianity

Modern Christians have taken a very abolitionist approach to slavery. Most Christians do not know that the early Church and some of its most influential figures all endorsed slavery including a so-called Apostle.

In this section we will analyse Christian approaches towards slavery beginning from the “Apostle” Paul up to some of the most famous and influential saints of the Church.

As we will compare to Islam, traditional Christianity deemed slavery to be divine punishment from God Himself and it was justified based on this. From those who held this view was the renowned Church father Augustine of Hippo<sup>5</sup>.

Slavery was also present in Old Testament times. Consider the following passage:

**“Your male and female slaves are to come from the nations around you; from them you may buy slaves. You may also buy some of the temporary residents living among you and members of their clans born in your country, and they will become your property. You can bequeath them to your children as inherited property and**

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<sup>5</sup> Slaves of the Churches: A History, p.280

***can make them slaves for life, but you must not rule over your fellow Israelites ruthlessly.***<sup>6</sup>

Paul and Peter famously ordered slaves to be obedient to their masters with no condemnation of the system of slavery in and of itself. Peter took a step further by commanding obedience to their masters **even if they were harsh or oppressive.**<sup>7</sup>

Saint John of Chrysostom also justified the existence of slavery by saying it was a divine punishment for sin. He said:

*“If someone were to ask, where does slavery come from, and why has it come to humanity?—and I know that many are asking these questions and desire to have them answered—I will tell you. **Slavery is the result of greed, of degradation, of brutality, since Noah, we know, had no slave, nor Abel, nor Seth, nor those who came after them. The institution was the fruit of sin.**”<sup>8</sup>*

Some missionaries have claimed that Gregory of Nyssa vehemently opposed slavery but contemporary scholarship has deemed this reading to be inaccurate. Dr Mary e. Sommar writes:

*“A number of modern readers have claimed that Gregory of Nyssa’s Fourth Homily on Ecclesiastes presents an unambiguous statement of opposition to slavery. **However, this reading of his sermon is not***

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<sup>6</sup> Leviticus 25:44-46 NIV

<sup>7</sup> Ephesians 6:5, 1 Peter 2:18-20

<sup>8</sup> Excerpt From Preaching Bondage de Wet, Chris L, p.17

*accurate. Gregory's homily was about excessive greed and arrogance, vices often typified by the ownership of large numbers of unnecessary slaves simply for ostentation. It was not at all a call for the abolition of slavery as an economic practice, as a more comprehensive examination of Gregory's writings will illustrate.”<sup>9</sup>*

As we can see, **Christianity generally had a positive attitude of slavery** and did not condemn it or take any abolitionist stances up until the modern period.

This is the same conclusion that the renowned historian Dr. Will Durant also came to, as he says:

*“The Church did not condemn slavery. Orthodox and heretic, Roman and barbarian alike assumed the institution to be natural and indestructible.”<sup>10</sup>*

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<sup>9</sup> Slaves of the Churches: A History, p.227

<sup>10</sup> Durant, W. (2011). The Age of Faith: The Story of Civilization, Volume IV. United Kingdom: Simon & Schuster.

## Traditional Islamic Jurisprudence Approach on Slavery

We have established that slavery was a **common phenomenon en masse** across the entire globe and have seen that the largest religion in the world (Christianity) and its historical approach to slavery was no different to the rest.

**Islam recognises that the original ruling on every human being is freedom.** This freedom is a necessary right of the human being until proven otherwise. It is the base ruling (*al-Asl*).

Western Academia has recognised that this base ruling was a reform that Islam brought to the institution of slavery<sup>11</sup>. This is something which is agreed upon by all four schools of Sunni jurisprudence.

Consider the following quote from the early Hanafi judge and scholar Abu Zayd al-Dabusi [d.430AH/1038CE]:

*“When God Almighty created the human to carry his responsibilities **he was honoured** with reason and protection so that he became capable of fulfilling the rights due upon him and [receiving] the rights granted to him. So it has been established for him the right to inviolability, **freedom** and right to ownership.”*<sup>12</sup>

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<sup>11</sup> Freamon, B. K. (2019). Possessed by the Right Hand: The Problem of Slavery in Islamic Law and Muslim Cultures. Netherlands: Brill, p.155

<sup>12</sup> al-Qādi Abu Zayd al-Dabusi, *Taqwīm al-Adilla*, Dar al-Kotob al-Ilmiyya. p.417

This later became a formal legal maxim and it is that the original status of every human being is freedom until proven otherwise (*al-Asl fil ādami al-Huriyya*).

For this reason freeing a slave is one of the most desirable acts of worship in Islam. The Hanbali jurist Mansur al-Buhuti [d.1051AH/1641] writes:

*“And [freeing slaves] contains getting rid of the harm of slavery from the inviolable human, as well as him being able to have autonomy over himself and its benefits (the benefits derived from being free), fully fulfilling his religious obligations and him being capable of acting on his own accord and choice. In [the books] «al-Tabsira» and «al-Haawi al-Saghir» it is stated, “It is the most loved action to God”.*»<sup>13</sup>

Another major reform which Islam brought to the institution of slavery is by drastically limiting how a free person can become a slave.

Islam says that the free human can only become a slave by either being captured as a prisoner of war or if a slave woman gives birth to a boy whose father is not the woman's master.<sup>14</sup> **This is a radical limitation** from the practice of previous empires who had many doors open for free people to become slaves.

Professor Bernard K. Freamon writes:

<sup>13</sup> al-Buhuti, *Kashāf al-Qinā'a*, Dar al-Kotob al-Ilmiyyah (2009). Volume 4 p.611

<sup>14</sup> *al-Mawsu'ah al-Fiqhiyya al-Kuwaytiyya* volume 3 p.298

**“Secondly, the Shari'a in theory also drastically reduced the ways that people under its aegis could legally be enslaved. The Greek, Roman, Byzantine, African, and Sasanid systems dominating the era's cultural and legal milieu permitted enslavement as punishment for crime, as expiation for sin, as well as self-sale of adults into slavery, sale or gift of children into slavery by parents and others *in loco parentis* for economic or other reasons, enslavement of foundlings, debt bondage, and the commercial prostitution of female slaves, enslavement of war captives, enslavement as a result of the circumstances of birth. Islamic law, as developed by jurists after the death of the Prophet Muhammad ﷺ, abolished all of these means of enslavement except for two: (1) the enslavement of prisoners of war and war captives and (2) enslavement by birth, spawned by two lawfully enslaved parents.”<sup>15</sup>**

To understand the Islamic approach to slavery we first must understand the political circumstances of the region. Professor John Esposito writes:

**“The world in which Islam emerged in the seventh century was a **rough neighbourhood where war was the natural state**. Arabia and the city of Mecca, in which Muhammad ﷺ lived and received God's revelation, were beset by tribal raids and cycles of vengeance and vendetta. The broader Near East, in which Arabia was located, was itself divided between two warring superpowers of the day, the**

<sup>15</sup> Freamon, B. K. (2019). Possessed by the Right Hand: The Problem of Slavery in Islamic Law and Muslim Cultures. Netherlands: Brill, p.155-156

*Byzantine (Eastern Roman) and the Persian (Sasanian) Empires.*

***Each had competed against the other for world dominion.***

*Seventh-century Arabia was critically located along the profitable trade routes of the Orient. As a result it was subject to the rivalry and interventions of its powerful imperial neighbours. The rise and spread of Islam was caught in both the local politics and fighting of Arabia and the imperial warfare of the Near East.”<sup>16</sup>*

Slavery was a widespread phenomenon at that time.<sup>17</sup> One of the principal methods of taking slaves was through prisoners of war. Due to Muslims having to fight their neighbours preemptively due to the hostile territory it would have been absurd to not reciprocate the same treatment.

Reciprocation in the context of taking prisoners of war is an **important strategy** to perform prisoner exchanges and free Muslim captives. Even if Islam set an initiative to abolish slavery it is highly unlikely that the neighbours in the region would comply to such a request.

Professor Hussein Fancy writes:

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<sup>16</sup> Esposito, John L.. *Unholy War: Terror in the Name of Islam*. United Kingdom, Oxford University Press, 2003, p.29

<sup>17</sup> Professor Matthew S. Gordon writes:

*“Slavery was thus a feature of the social and economic history of the Byzantine and Sasanid Empires, the two political giants of the pre-Islamic Middle East. As such it would have been instantly recognizable to their pagan, Zoroastrian, Jewish, and Christian subjects. So, too, would it become for Muslims and the majority non-Muslim populace of the Middle East, following the seventh-century establishment of the Islamic empire.”* The Cambridge World History of Slavery: Volume 2, AD 500-AD 1420. p.337

*“Rather than emerging all at once, the medieval tradition of ransom and exchange developed unevenly, in fits and starts. In particular, these practices materialized and thrived in three key contexts – the Arab–Byzantine wars, the Crusader Levant, and the Iberian frontier. What follows makes two central claims. First, the development of ransom and exchange practices depended on particular zones of encounter that promoted a conception of and a need for reciprocity.”*

Due to this the great Hanafi jurist al-Kāsāni [d.581AH/1191CE] writes:

*“Slavery occurred in a few people, legislatively, only due to the temporal factor of dominance, which is caused by [another] temporal thing: disbelief that resuscitates war from both sides.”*<sup>18</sup>

Enslaving (which is the exclusive prerogative of the leader<sup>19</sup>) is one out of multiple options the Sultan of the Muslims has.

He can:

1. Enslave
2. Ransom
3. Pardon

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<sup>18</sup> al-Kāsāni, Badā’ī al-Sanā’ī, Dar al-Kotob al-Ilmiyyah. Volume 8 p.315

<sup>19</sup> al-Mawsu’ah al-Fiqhiyya al-Kuwaytiyya volume 3 p.198

“The jurists have agreed that the one who has the right to enslave, pardon or ransom is the chief ruler of the Muslims”

4. Make them protected citizens
5. Kill (only for combatants)

The Sultan is to act only in the best interests of the Muslims, prioritising their safety.<sup>20</sup> The Hanafi school famously disagreed with the rest of the schools of Islamic law on whether pardoning and ransom are permitted for prisoners of war. The Hanafis held that it is impermissible due to the reason that letting them go will cause inevitable harm to the Muslims.

The Hanafi reasoning is that if combatants are ransomed then this will rescue a limited number of Muslims but the combatants **will return and fight the Muslims thus it is self inflicting harm to ransom or pardon them.** This reasoning is built upon an inevitable social reality that existed in the early and mediaeval period.

Thus the following point should not be limited to a Hanafi perspective but rather it should show the historical reality of why enslaving prisoners of war was sometimes an option which should be taken.

Imam Burhān al-Dīn al-Marghīnāni [d. 593AH/1197AH] writes<sup>21</sup>:

*« (If he [the ruler] wills he may enslave them) **that is to defend ourselves against their mischief alongside its benefit to the people of Islam.»***

<sup>20</sup> al-Sarakhsī, al-Mabsut. Dar al-Kotob al-Ilmiyyah, volume 5 p.72

<sup>21</sup> al-Marghīnāni. al-Hidāya, Dār al-Sirāj. volume 4 p.183

al-Marghināni continues and says:

«*The Imām (he intends Abu Hanifa) argues that in (accepting ransom) there is support for the unbelievers **for they will return as a warring enemy against us.** The repelling of his mischief hostility is better than the release of Muslim captives because if they were to stay in their captivity it would be a trial for them but would not be associated with us, while support by sending their captives to them will have direct repercussions on us.*”<sup>22</sup>

The legal reasoning stated by the Hanafi jurists<sup>23</sup> which we have shown from al-Marghīnāni doesn't just represent how the Hanafis dealt with the reality they were living in but also gives us the larger political picture of their times.

It becomes clear that Islam abolished all ways in which a free person can become a slave except two cases due to necessity.<sup>24</sup> It is important to consider that Islam does not allow any free person to be enslaved

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<sup>22</sup> Marghīnāni. al-Hidāya, Dār al-Sirāj. volume 4 p.184

<sup>23</sup> For example, this was also stated by both Ibn Nujaym brothers, Amir Kātib al-Attiqani and many other Hanafi jurists.

<sup>24</sup> Sarakhsī, Ibn Qudama, al-Shirāzī and al-Mardawī are prominent scholars of the Hanafi, Shāfi‘ī and Hanbali schools of law. They viewed that taking prisoners of war was a necessity for the following reasons:

1. Prisoner exchanges (Except the Hanafis as we have shown)
2. Breaking the power of the enemy
3. Defence against their mischief

See: *al-Mawsu‘ah al-Fiqhiyya al-Kuwaytiyya* volume 4 p.196

via war if there is a mutual pact between Muslims and their enemies that they will refrain from such.

This is what the erudite jurist Muhammad b. al-Hasan concluded. He says:

*“If they stipulate (as part of a treaty) that we do not enslave anyone from them then it is impermissible upon us to enslave or kill them.”<sup>25</sup>*

What further supports what we have said is that Islam does not allow for people to recklessly enslave just absolutely anybody but rather there must be a real benefit from such enslavement. People like old men, blind people etc. cannot be enslaved according to the Hanafi and Hanbali schools of law unless there is a real benefit from doing so as harm is not expected from them.

The aforementioned is also stated in the Kuwaiti encyclopaedia of Islamic jurisprudence:

*“The position of the Hanafis and Hanbalis, which is a position that is also found among the Shafi’is, is that **it is not permissible to enslave whoever it is not feared harm will come from him or there is no benefit in enslaving him such as the old man close to death, the old man with sickness, the blind and monks if they don’t have strategic insight.”<sup>26</sup>***

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<sup>25</sup> Sharh al-Siyar al-Kabir volume 1 p.213, Dar al-Kotob al-Ilmiyyah (1997).

<sup>26</sup> *al-Mawsu’ah al-Fiqhiyya al-Kuwaytiyya* volume 4 p.196

It is important to note that this excludes women and children. One might ask, “What harm can come from women and children that does not come from an old man?”

Firstly, it's important to note that Muslims are not enslaving random women. There are two conditions for them to be enslaved:

1. They are non-Muslim (because if they were Muslim we wouldn't fear harm from them due to them being from us)
2. They are combatants, either they themselves fight or they are in the battlefield with a combatant<sup>27</sup>

Following the second point, the jurists said that this type of woman is a cause of conflict due to her giving birth to soldiers who will fight the Muslims. So it is important to pre-emptively defend against their harm.<sup>28</sup>

As for the harm a child could bring, the jurists said a child being a child brings no harm at all, but it was customary that when they hit puberty they would become combatants against the Muslims, so enslaving them is pre-emptively defending against their harm which is inevitable in the future.<sup>29</sup>

Whilst the Maliki and Shafi'i schools might disagree on the permissibility aspect they still held that enslavement was enacted by

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<sup>27</sup> *al-Mawsu'ah al-Fiqhiyya al-Kuwaytiyya* volume 3 p.299

<sup>28</sup> al-Kāsāni, Badā'i al-Sanā'i volume 9 p.395. al-Zuhayli, al-Fiqh al-Islāmi wa adillatuhu volume 6 p.471

<sup>29</sup> Hashiyat Ibn Abideen volume 6 p.230

the leader when he sees it as the best political interests for the Muslims against their enemies, so the meaning in why slavery is legislated is essentially shared.

Slavery in of itself may not be desirable, however, it was necessitated by factors other than it such as the socio-political circumstances. This is what Muslim scholars call in legal philosophy “*hasan li ghayrihi*”, meaning that a thing may not be desirable on its own but is prescribed due to other factors it is dependent upon.

## Did Islam Intend To Abolish Slavery?

In our times, some Muslim apologists have made the claim that Islam paved the way for the abolishment of slavery and that is the intention of the lawgiver.

Such a claim without any elaboration is most certainly false as it requires explicit evidence from the Quran or Sunnah. From the Sunnah we can see that the Prophet Muhammad ﷺ employed enslavement as a politically necessary tool and so did his ﷺ companions after him ﷺ.

We do not find any roadmap for the claim that Islam intended to abolish slavery. However, this statement can be true depending on what is intended.

If it is intended that Islam abolished many ways in which a free man may become a slave and left the possibility of enslavement limited then yes this would be true.

If it is intended, however, that slavery can eventually become permanently impermissible then this is most certainly false as prohibition requires explicit textual evidence. Otherwise it falls under making haram what God has made halal.

In any case, it is not wise to say that Islam intended to abolish anything but rather it is upon the Muslims to say that Islam simply allowed it as an option due to political necessity and disapproved of other unjust forms of enslavement.

As for the other reforms Islam brought to the institution of slavery then we will mention them. However, it is important to note that we won't elaborate too deeply into the finer rulings of each reform as this defeats the intended purpose of this small booklet which is to make it easy for people to read. We will suffice with Sheikh Nur al-Din Itr's abridgement of this. He (may God have mercy on him) says:

“[Islam] opened the ways for slaves to become free, from these paths which are reasons for freedom are:

1. The slave woman gives birth from her master, she automatically becomes free after his death

2. Whoever owns a mahram from his relatives then he is automatically free
3. Freeing slaves is a means of getting closer to God
4. Freeing slaves due to an obligatory clause such as an expiation for murder, injurious comparison and making an oath to free.
5. That the slave becomes free through “*al-Tadbir*” and that is when the Master makes him free after his death
6. Contracting (*al-Mukātaba*), and it is when the Master contracts with his slave that he will become free once he pays a specific amount of money to him.”<sup>30</sup>

## Treatment of Slaves in Islamic law

One of the rights of slaves in Islamic law is that the master must provide for the slave according to what is customary in that land. For example, he must provide him with clothes. These clothes cannot be just what covers his nakedness but rather respectable and appropriate clothing.<sup>31</sup>

It is also not permissible to overwork the slave more than he can handle and this is impermissible by consensus as narrated by Imam al-Nawawi<sup>32</sup>. If the master should do such a thing then he is obligated to help him out himself or lower the burden upon him.

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<sup>30</sup> I'lām al-An'ām Sharh Bulūgh al-Marām volume 4 p.460. Dar al-Minhāj al-Qawim

<sup>31</sup> Hashiyat Ibn Abideen volume 5 p.382, al-Mawsu'ah al-Fiqhiyya al-Kuwaytiyya volume 23 p.25

<sup>32</sup> Sharh Sahih Muslim volume 10 p. 55, Dar al-Minhaj al-Qawim

This comes from the following Hadith:

*“Abu Dharr reported God’s Messenger as saying, “God has put your brethren under your authority, so he who has his brother put under his authority by God must feed him from what he eats, clothe him from what he wears, and not impose on him work which is too much for him, but if he does so he must help him with it.”<sup>33</sup>*

What is important to note is that the Hadith does not instruct owners to provide exactly what he eats to his slave or what he wears but what is customary and from the same genus of that particular thing.<sup>34</sup>

As we can see, the Messenger of God ﷺ gave slaves particular rights which are obligatory upon the Master to impose. The Messenger of God ﷺ specifically called the slaves “brethren” (*ikhwānukum*).

This shows the character which we are instructed as Muslims to have towards slaves and not view them as inferior to us but rather they are our brothers who have particular rights.

The Prophet ﷺ said:

*“If anyone beats a servant for an offence he did not commit, or slaps him, **the atonement due from him is to set him free.**”<sup>35</sup>*

This Hadith demonstrates that it is prohibited to unjustly discipline or physically abuse a slave. The Prophet ﷺ says that the expiation

<sup>33</sup> Mishkāt al-Masabih 3345

<sup>34</sup> Ibn Nujaym, al-Bahr al-Rā’iq volume 4 p.369. Dar al-Kotob al-Ilmiyyah

<sup>35</sup> Sahih Muslim 1657b

for committing such a sin is that he should be set free. We see application of this among the companions of the Prophet ﷺ, specifically with Ibn Mas'ud where he freed a slave for unjustly hitting him. The Prophet ﷺ went on to say to Ibn Mas'ud that if he did not expiate that sin by freeing him he would have been going to Hellfire.

Allah said in the Qur'an:

*“Worship Allah ‘alone’ and associate none with Him. And be kind to parents, relatives, orphans, the poor, near and distant neighbours, close friends, ‘needy’ travellers, **and those ‘bondspeople’ in your possession.** Surely Allah does not like whoever is arrogant, boastful.”<sup>36</sup>*

As we can see God obligated good treatment and kindness to those whom the right hand possesses, it is also noteworthy to point out that the specific words “*wa mā malakat aymānukum*” shows the status of slaves in Islamic law. The right hand is the hand in which honourable things are done and represents honour in the Arabic language. With it we shake hands and we do not clean ourselves with our right hands.

Imam al-Qurtubi writes:

*“The ownership of the right hand, in justice, provides maintenance by obligation of good custodianship and gentleness with slaves. The Almighty attributed ownership to the right hand as it is a praiseworthy-*

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<sup>36</sup> Qur'an 4:36

*attribute, and the right hand specifically has the best qualities to carry it out.”<sup>37</sup>*

## The Prophet Muhammad ﷺ and his companions as an example to follow

The Prophet ﷺ passed away without owning a single slave. He freed 36 slaves. The following Hadith describes his state when he passed away:

Amr b. al-Hārith (May God be pleased with him) said:

“Allah’s Messenger ﷺ did not leave a Dinar or a Dirham **or a male or a female slave**. He left only his white mule on which he used to ride, and his weapons, and a piece of land which he gave in charity for the needy travellers.”

The commentators of Hadith mention that he freed the slaves or they died before his passing.<sup>38</sup>

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<sup>37</sup> Tafsir al-Qurtubi 4:3

<sup>38</sup> Mirqāt al-Mafātih Sharh Mishkāt al-Masabih by Mulla Ali al-Qari volume 11 p.127, Dar al-Kotob al-Ilmiyyah. Fathul Bāri by Ibn Hajar al-Asqalani, volume 5 p.424. Tahqiq Abdul Qadir Shayba al-Hamd.

Dr Nur al-Din Itr, who was one of the most prominent Hadith experts of the century, mentioned that the Prophet ﷺ freed 63 slaves.<sup>39</sup>

He also mentioned the number of slaves which the companions freed:

1. A’isha freed 67 slaves

2. al-Abbas freed 70 slaves

3. Abdullah b. Umar freed 1,000 slaves

4. Dhu'l-Kala al-Humayri freed 8,000 slaves in one day

5. Abdul Rahman b. Awf freed 30,000 slaves in his lifetime

May God be pleased with all of the companions, who followed the example of the Messenger of God ﷺ.

It is said that the Prophet Muhammad ﷺ is the walking Qur'an and his companions are the best in practising the Prophet's ﷺ Sunnah.

We can clearly see the Prophet ﷺ following the Qur'an in this regard from the following passages:

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<sup>39</sup> I'lām al-Anām sharh Buloogh al-Marām volume 4 p.459. Dar al-Minhāj al-Qawim

“If only they had attempted the challenging path ‘of goodness instead’!

And what will make you realize what ‘attempting’ the challenging path is? It is to free a slave.”<sup>40</sup>

## Does Islam Legislate Slavery in Our Times?

The simple answer to this is **no**. The Muslim jurists of our time have stated that slavery is categorically impermissible in our times due to the Muslim rulers drafting a treaty banning slavery from both sides.<sup>41</sup> As we saw previously from the quote of Muhammad b. al-Hasan al-Shaybani, it is permissible to contract a treaty banning enslaving each other. Muslim nations are in mutual peace with non-Muslim nations. This means that non-Muslim blood and wealth is categorically inviolable. From the inviolability of blood and wealth follows the inviolability of freedom.<sup>42</sup> For this reason enslaving during times of peace and mutual security would be impermissible.

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<sup>40</sup> Qur'an 90:11-13

<sup>41</sup> *Haqq al-Huriyyah fil 'Aalam*, Sheikh Dr Wahba al-Zuhayli p.111, Usmani, Muhammad Taqi, “Answers to Your Questions”, Monthly Al-Balagh International, Karachi, Vol.26 No.06 April 2015, pp. 33-36. Open letter to Baghdadi

<sup>42</sup> al-Muhib al-Burhani, Ibn Maza. Volume 5 p.46. Dar al-Kotob al-Ilmiyyah

## Conclusion

As a final note it is important to realise that freedom and enslavement are not necessarily opposites. Slaves are those whose freedom is restricted by somebody else. At the same time everybody is restricted by somebody else to a certain degree. There is always going to be somebody in charge.

At the very end, the one who is in ultimate authority and charge is Allah ﷺ but below Allah's authority, humans hold authority over each other. The head of state holds authority over his subjects and the man holds authority over his family.

**Freedom and slavery are not dichotomous.** Absolute freedom is in reality an illusion as there is no unrestricted freedom. Everybody's freedom is restricted to a degree. The only difference between somebody who is enslaved and somebody who is not is the limit of restriction which is imposed on one person which is different from the other.

Nevertheless, we have given sufficient explanation as to why slavery exists in Islam and we have compared it to the Christian view. We have also shown how the doors of slavery were wide open in other empires

and Islam radically limited it and made the possibility of a free person being enslaved by Muslims by only two means.

All that we have stated is also the explanation of contemporary scholars of Sunni Islam, scholars who have taken this religion by the connected chain of narration. A further reading list has been added for those who want to refer to the sources. The mentioned scholars are major scholars of Sunni Islam.

May peace and blessings be upon the Best of Creation ﷺ through whom we were guided and for whose intercession we hope to seek.

## Further Reading

- Treatise on Maqāsid al-Shari'ah by al-Taahir Ibn Ashur p.154
- *Haqq al-Huriyyah fil 'Aalam* by Dr. Wahba al-Zuhayli  
p.109-111
- *I'laam al-An'aam* volume 4 p.159 *Dār al-Minhāj* by Dr. Nur  
al-dīn I'tr
- *al-Mawsu'ah al-Fiqhiyya al-Kuwaytiyya* “الرق”
- *Min al-Fikr wal Qalb* by Sheikh Dr. Muhammad Sa'id  
Ramadan al-Buti p.84